

[DISCUSSION DRAFT]

APRIL 27, 1998

105TH CONGRESS
2D SESSION**H. R.** _____

IN THE HOUSE OF REPRESENTATIVES

Mr. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Office of Federal Procurement Policy Act
(41 U.S.C. 401 et seq.) to provide for measurement
of the performance of the Federal procurement system,
to enhance the training of the acquisition workforce,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Procurement System Performance Measurement
6 and Acquisition Workforce Training Act of 1998”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of performance measures for the Federal procurement system.
- Sec. 3. Professionalism of the acquisition workforce.
- Sec. 4. Responsibilities for acquisition workforce training.
- Sec. 5. Funding for acquisition workforce training and education.
- Sec. 6. Evaluation by the Comptroller General.

3 **SEC. 2. ESTABLISHMENT OF PERFORMANCE MEASURES**
4 **FOR THE FEDERAL PROCUREMENT SYSTEM.**

5 (a) PERFORMANCE MEASURES.—The Office of Fed-
6 eral Procurement Policy Act (Public Law 93–400; 41
7 U.S.C. 401 et seq.) is amended by adding at the end the
8 following new section:

9 **“SEC. 39. PERFORMANCE MEASURES FOR THE FEDERAL**
10 **PROCUREMENT SYSTEM.**

11 “(a)(1) The Administrator shall establish a system
12 for measuring the performance and effectiveness of the
13 procurement system, including standards for measuring
14 the performance of the various elements of the system.
15 The performance standards shall be structured—

16 “(A) to enable the Congress, the Office of Fed-
17 eral Procurement Policy, and the heads of executive
18 agencies to track progress of achievement of acquisi-
19 tion reform objectives on a Government-wide basis
20 and to gauge the effectiveness of the procurement
21 system in supporting the accomplishment of the mis-
22 sion of such agencies; and

1 “(B) to benchmark the performance of execu-
2 tive agencies against the performance of [industry]/
3 [private entities?] and other public sector procure-
4 ment operations.

5 “(2) The objective of the procurement performance
6 measurement system shall be to use the performance data
7 to improve [Federal and] executive agency acquisition
8 practices and policies in order to enhance support for the
9 accomplishment of the mission of such agencies.

10 “(3) In developing and implementing the procure-
11 ment performance measurement system, the Adminis-
12 trator shall, to the maximum extent practical, use existing
13 data sources and automated data collection tools.

14 “(b)(1) The head of each executive agency for which
15 more than 50 percent of the funds appropriated are ex-
16 pended for procurement shall include, as a part of the an-
17 nual performance plan of the agency submitted under sec-
18 tion 1115 of title 31, United States Code, an assessment
19 of the performance of the procurement system of the agen-
20 cy in terms of its efficiency and effectiveness in supporting
21 the agency in accomplishing its mission.

22 “(2) The assessment required under paragraph (1)
23 shall—

1 “(A) address corrective actions and activities
2 planned by the agency to improve the performance
3 of the procurement system of the agency;

4 “(B) address the adequacy of the education and
5 training of the acquisition workforce of the agency,
6 including whether the workforce has the necessary
7 competencies, skills, and knowledge to effectively
8 support the achievement of the mission of the agen-
9 cy and information on the amount of funds budgeted
10 and expended to ensure that the acquisition
11 workforce of the agency is appropriately educated
12 and trained; and

13 “(C) evaluate the effectiveness of acquisition
14 workforce training programs in providing necessary
15 competencies, skills, and knowledge.

16 “(c) The Administrator may require the heads of ex-
17 ecutive agencies that are not required to submit a per-
18 formance plan under section 1115 of title 31, United
19 States Code, to submit an assessment to the Adminis-
20 trator similar to the assessment described in subsection
21 (b).”.

22 (b) CONFORMING AMENDMENT.—The table of con-
23 tents of such Act is amended by adding at the end the
24 following new item:

“Sec. 39. Performance measures for the Federal procurement system.”

1 **SEC. 3. PROFESSIONALISM OF THE ACQUISITION**
2 **WORKFORCE.**

3 (a) MANDATORY TRAINING AND EDUCATION.—Sec-
4 tion 37(f)(3) of the Office of Federal Procurement Policy
5 Act (41 U.S.C. 433(f)(3)) is amended to read as follows:

6 “(3) MANDATORY TRAINING AND EDU-
7 CATION.—The head of each executive agency shall
8 establish, for each career path, requirements for ini-
9 tial and continuing education in the critical acquisi-
10 tion-related duties and tasks of the career path.
11 Such requirements shall include, at a minimum, the
12 core curriculum, continuing education programs, and
13 policy implementation training required by the Fed-
14 eral Acquisition Regulation.”.

15 (b) ACQUISITION WORKFORCE.—Section 37(e) of the
16 Office of Federal Procurement Policy Act (41 U.S.C.
17 433(e)) is amended to read as follows:

18 “(e) APPLICABILITY TO ACQUISITION
19 WORKFORCE.—The programs established by this section
20 shall apply to the acquisition workforce of each executive
21 agency. For purposes of this section, the acquisition
22 workforce of an agency consists of—

23 “(1) all employees serving in acquisition posi-
24 tions listed in subsection (g)(1)(A) of this section;

25 “(2) program managers with significant acqui-
26 sition responsibilities;

1 “(3) contracting officers and contracting officer
2 representatives with authority [to award or admin-
3 ister contracts for amounts?] above the micro-pur-
4 chase threshold; and

5 “(4) other Federal employees who are assigned
6 significant acquisition roles and responsibilities.”.

7 (c) CONTRACTING OFFICERS.—(1) Section 37(g) of
8 the Office of Federal Procurement Policy Act (41 U.S.C.
9 433(g)) is amended by adding at the end the following
10 new paragraph:

11 “(4) CONTRACTING OFFICERS.—(A) Beginning
12 on October 1, 2000, the head of each executive agen-
13 cy shall require, in order to serve as a contracting
14 officer with authority to award or administer con-
15 tracts for amounts above the micro-purchase thresh-
16 old, the following:

17 “(i) For appointments to serve as a con-
18 tracting officer with authority to award or ad-
19 minister contracts that do not exceed the sim-
20 plified acquisition threshold as specified in sec-
21 tion 4(11) of the Office of Federal Procurement
22 Policy Act (41 U.S.C. 403(11)), completion of
23 training in duties related to use of the sim-
24 plified acquisition procedures authorized to be
25 used under the appointed position (including

1 any training mandated for such duties by the
2 Federal Acquisition Regulation) and such addi-
3 tional requirements, based on the dollar value,
4 nature, and complexity of the contracts award-
5 ed or administered pursuant to the appoint-
6 ment, as may be established by the Federal Ac-
7 quisition Regulation or the appointing agency
8 head.

9 “(ii) For appointments to serve as a con-
10 tracting officer with authority to award or ad-
11 minister contracts for amounts above the sim-
12 plified acquisition threshold as specified in sec-
13 tion 4(11) of the Office of Federal Procurement
14 Policy Act—

15 “(I) completion of the core curriculum
16 established in the Federal Acquisition Reg-
17 ulation for contracting officers;

18 “(II) at least 2 years experience in a
19 contracting or purchasing position;

20 “(III) satisfaction of other qualifica-
21 tion requirements for contracting or pur-
22 chasing positions at the same grade level
23 established under paragraph (1)(A); and

24 “(IV) such additional requirements,
25 based on the dollar value, nature, and com-

1 plexity of the contracts awarded or admin-
2 istered pursuant to the appointment, as
3 may be established by the Federal Acquisi-
4 tion Regulation or the head of the agency
5 for the appointment.

6 “(B)(i) The head of the executive agency may
7 waive any of the requirements in subparagraph (A)
8 (except those contained in qualifications standards
9 approved by the Office of Personnel Management
10 under subsection (g)(3)) with respect to an employee
11 of the agency if the agency head determines that the
12 employee possesses significant potential for advance-
13 ment to levels of greater responsibility and author-
14 ity, based on demonstrated job performance and
15 qualifying experience.

16 “(ii) The head of the agency shall [set forth in
17 a written document]/[provide to the administrator in
18 writing?] the rationale for any decision to waive such
19 requirements.”.

20 (2) Section 1724(a) of title 10, United States Code,
21 is amended to read as follows:

22 “(a) CONTRACTING OFFICERS.—Beginning on Octo-
23 ber 1, 2000, the Secretary of Defense shall require, in
24 order to serve as a contracting officer with authority to
25 award or administer contracts for amounts above the

1 micro-purchase threshold as specified in section 32(g) of
2 the Office of Federal Procurement Policy Act (41 U.S.C.
3 428(f)), the following:

4 “(1) For appointments to serve as a contracting
5 officer with authority to award or administer con-
6 tracts that do not exceed the simplified acquisition
7 threshold as specified in section 4(11) of the Office
8 of Federal Procurement Policy Act (41 U.S.C.
9 403(11))—

10 “(A) completion of training in duties relat-
11 ed to use of the simplified acquisition proce-
12 dures authorized to be used by the appointment
13 (including any training mandated for such du-
14 ties by the Federal Acquisition Regulation); and

15 “(B) such additional requirements, based
16 on the dollar value, nature, and complexity of
17 the contracts awarded or administered pursuant
18 to the appointment as may be established under
19 the Federal Acquisition Regulation or by the
20 Secretary of Defense for the appointment.

21 “(2) For appointments to serve as a contracting
22 officer with authority to award or administer con-
23 tracts for amounts above the simplified acquisition
24 threshold as specified in section 4(11) of the Office

1 of Federal Procurement Policy Act (41 U.S.C.
2 403(11))—

3 “(A) completion of the core curriculum es-
4 tablished in the Federal Acquisition Regulation
5 for contracting officers;

6 “(B) at least 2 years experience in a con-
7 tracting or purchasing position;

8 “(C)(i) a baccalaureate degree from an ac-
9 credited educational institution authorized to
10 grant baccalaureate degrees;

11 “(ii) completion of at least 24 semester
12 credit hours (or the equivalent) of study from
13 an accredited institution of higher education in
14 accounting, business finance, law, contracts,
15 purchasing, economics, industrial management,
16 marketing, quantitative methods, and organiza-
17 tion and management; or

18 “(iii) passage of an examination considered
19 by the Secretary of Defense to demonstrate
20 skills, knowledge, or abilities comparable to that
21 of an individual who has completed at least 24
22 semester credit hours (or the equivalent) of
23 study from an accredited institution of higher
24 education in any of the disciplines listed in sub-
25 paragraph (ii); and

1 “(D) such additional requirements, based
2 on the dollar value, nature, and complexity of
3 the contracts awarded or administered pursuant
4 to the appointment, as may be established by
5 the Federal Acquisition Regulation or the Sec-
6 retary of Defense for the appointment.”.

7 (d) QUALIFICATIONS STANDARDS.—Section 1724(b)
8 of title 10, United States Code, is amended by adding at
9 the end the following new sentence: “The Secretary of De-
10 fense shall also require employees to meet any additional
11 qualification requirements established by the Adminis-
12 trator of the Office of Federal Procurement Policy for sen-
13 ior contracting positions in the GS–1102 series pursuant
14 to section 37(g)(1)(ii) of the Office of Federal Procure-
15 ment Policy Act (41 U.S.C. 433(g)(1)(ii)).”.

16 (e) CERTIFICATION EXAMINATIONS.—Section
17 1732(c)(2) of title 10, United States Code, is amended
18 by striking “is serving” and all that follows through “if
19 the employee”.

20 (f) COURSEWORK TUITION.—Section 37(h)(2) of the
21 Office of Federal Procurement Policy Act (41 U.S.C.
22 433(h)(2)) is amended by striking “in accordance with”
23 and inserting “notwithstanding the provisions of”.

24 (g) ACCELERATED PROMOTIONS.—Section 37 of the
25 Office of Federal Procurement Policy Act (41 U.S.C. 433)

1 is further amended by adding at the end the following new
2 subsection:

3 “(i) RECRUITMENT AND PROMOTIONS.—

4 “(1) RECRUITMENT.—(A) For purposes of sec-
5 tions 3304, 5333, and 5753 of title 5, United States
6 Code, the head of an agency (including the Secretary
7 of Defense) may determine that certain Federal ac-
8 quisition positions are ‘shortage category’ positions
9 in order to recruit and directly hire employees with
10 unusually high qualifications, such as employees
11 who—

12 “(i) hold masters or equivalent degrees
13 from accredited institutions of higher education
14 in business administration, public administra-
15 tion, or systems engineering; or

16 “(ii) have had substantial, outstanding pri-
17 vate sector experience with commercial acquisi-
18 tion practices, terms, and conditions.

19 “(B) Personnel actions under this paragraph
20 shall be subject to policies prescribed by the Office
21 of Personnel Management for direct recruitment, in-
22 cluding the appointment of a preference eligible as
23 long as preference eligibles are available who satisfy
24 the stipulated high level of qualifications.

1 “(2) ACCELERATED PROMOTIONS.—(A) The
2 Director of the Office of Personnel Management
3 shall authorize the rapid promotion of Federal ac-
4 quisition personnel (including personnel in the De-
5 partment of Defense) who satisfactorily complete
6 programs of training and education required by the
7 Federal Acquisition Regulation for positions at high-
8 er General Schedule grade levels in their respective
9 fields and otherwise meet or exceed standards for
10 satisfactory performance.

11 “(B) The heads of agencies may provide any
12 such personnel with a maximum of 2 promotions
13 during any 52-week period.

14 “(C) No employee may be promoted under this
15 paragraph without adherence to competition require-
16 ments under law [or regulation?].”.

17 **SEC. 4. RESPONSIBILITIES FOR ACQUISITION WORKFORCE**
18 **TRAINING.**

19 (a) ADMINISTRATOR FOR FEDERAL PROCUREMENT
20 POLICY.—Section 6(d) of the Office of Federal Procure-
21 ment Policy Act (41 U.S.C. 405) is amended—

22 (1) by striking “and” at the end of paragraph
23 (12);

24 (2) in paragraph (13), by striking the period
25 and inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(14) establishing requirements for acquisition
4 professionals to obtain and maintain certification by
5 a relevant professional association or [by others]/
6 [other entities] as authorized in the Federal Acquisi-
7 tion Regulation.”.

8 (b) FEDERAL ACQUISITION REGULATORY COUN-
9 CIL.—Section 25(d) of the Office of Federal Procurement
10 Policy Act (41 U.S.C. 421(d)) is amended—

11 (1) by striking “and” at the end of paragraph
12 (2);

13 (2) in paragraph (3), by striking the period and
14 inserting “; and”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(2) review, approve, and promulgate in the
18 Federal Acquisition Regulation certification require-
19 ments, core curricula, continuing education pro-
20 grams, and policy implementation training rec-
21 ommended by the Director of the Federal Acquisi-
22 tion Institute under section 6(d)(5)(F) and (J) to
23 ensure that instructional materials provided for the
24 Federal acquisition workforce accurately incorporate
25 the provisions and intent of the Federal Acquisition

1 Regulation and are effective in providing the skills
2 and knowledge necessary to competently implement
3 those provisions and otherwise enable the workforce
4 to obtain the best value in awarding and administer-
5 ing Federal contracts.”.

6 (c) FEDERAL ACQUISITION INSTITUTE.—Section
7 6(d) of the Office of Federal Procurement Policy Act (41
8 U.S.C. 405(d)) is amended—

9 (1) in paragraph (5)(B), by inserting “, and
10 provide fellowships and grants for researching acqui-
11 sition issues” before the period;

12 (2) by amending paragraph (5)(F) to read as
13 follows:

14 “(F) develop and recommend core currie-
15 ula, continuing education programs, policy im-
16 plementation training, and other instructional
17 materials for acquisition personnel in coordina-
18 tion with private and public sector acquisition
19 colleges and training facilities (to the maximum
20 extent practicable), and integrate those instruc-
21 tional materials with electronic performance
22 support systems for just-in-time delivery of ini-
23 tial and continuing education in critical duties
24 and tasks).”;

1 (3) by striking “and” at the end of subpara-
2 graph (I);

3 (4) by redesignating subparagraph (J) as sub-
4 paragraph (K); and

5 (5) by inserting after subparagraph (I) the fol-
6 lowing new subparagraph:

7 “(J) ~~partner with~~enter into partner-
8 ships with? private and public sector employers
9 of acquisition personnel and with nonprofit pro-
10 fessional associations in developing and main-
11 taining valid and reliable professional certifi-
12 cation programs for acquisition disciplines;
13 and”.

14 **SEC. 5. FUNDING FOR ACQUISITION WORKFORCE TRAIN-**
15 **ING AND EDUCATION.**

16 Section 37(h) of the Office of Federal Procurement
17 Policy Act (41 U.S.C. 433) is amended—

18 (1) by amending paragraph (1) to read as fol-
19 lows:

20 “(1) FUNDING LEVELS.—(A)(i) The head of
21 each executive agency shall be responsible for ensur-
22 ing adequate funding is included in budget requests
23 of the agency and for ensuring any funds provided
24 for the education and training of the acquisition
25 workforce are expended for such purposes.

1 “(ii) In requesting funding as a part of the
2 budget request of the agency, the agency head shall
3 take into consideration the results of the assessment
4 of the performance of the procurement system of the
5 agency in terms of its efficiency and effectiveness in
6 supporting the agency in accomplishing its mission,
7 including the adequacy of the education and training
8 of the acquisition workforce and whether the
9 workforce has the necessary competencies, skills, and
10 knowledge to effectively support the achievement of
11 the mission of the agency.

12 “(B) The Administrator shall—

13 “(i) review the agency budget requests to
14 assess the adequacy of funding levels for the
15 education and training of the acquisition
16 workforce and make recommendations to the
17 agency head for adjustments of the funding lev-
18 els, as appropriate;

19 “(ii) include sufficient funds in the budget
20 recommended to the Administrator of General
21 Services for the Federal Acquisition Institute in
22 accordance with section 6(d)(5) for the develop-
23 ment and maintenance of the instructional ma-
24 terials for the core curricula, policy implementa-
25 tion training, and for the development of tech-

1 nology-based learning tools and support systems
2 that will benefit the acquisition workforce
3 across the Federal Government;

4 “(iii) prepare a report for inclusion in the
5 President’s annual budget on the amounts re-
6 quested by agencies in terms of adequacy for
7 accomplishing the purposes of this section, and
8 for maintaining an efficient and effective acqui-
9 sition system (including information on rec-
10 ommended funding levels for the Federal Acqui-
11 sition Institute);

12 “(iv) in preparing the report under clause
13 (iii), and after consulting with the head of each
14 affected executive agency, recommend any ap-
15 propriate consolidation of funding for inter-
16 agency acquisition training and education pro-
17 grams and provide information on actual out-
18 lays in prior fiscal years for acquisition training
19 and education along with an evaluation of the
20 effectiveness of those programs in providing the
21 workforce with the necessary competencies,
22 skills, and knowledge.

23 “(C) The President shall include the report in
24 the annual budget submitted pursuant to section
25 1105 of title 31, United States Code.”; and

1 (2) by adding at the end the following new paragraph:

2 “(3) PROFESSIONAL ORGANIZATIONS.—Not-
3 withstanding section 4109(b) of title 5, United
4 States Code, the head of an executive agency may
5 pay membership fees and fees for certification test-
6 ing for individual employees to organizations to fur-
7 ther acquisition professionalism.”.

8 **SEC. 6. EVALUATION BY THE COMPTROLLER GENERAL.**

9 The Comptroller General shall conduct an independ-
10 ent evaluation of the actions taken by executive agencies
11 to carry out the requirements of section 37 of the Office
12 of Federal Procurement Policy Act. On or before February
13 10, 2000, the Comptroller General shall submit to the
14 Committee on Government Reform and Oversight of the
15 House of Representatives and the Committee on Govern-
16 mental Affairs of the Senate a report on the evaluation
17 required by this section. Such report shall include—

18 (1) an analysis of the effectiveness of the ac-
19 tions taken by executive agencies to carry out such
20 requirements; and

21 (2) any legislative and administrative rec-
22 ommendations that the Comptroller General consid-
23 ers appropriate to meet the objectives of that sec-
24 tion.